REMARKS

Applicants have thoroughly considered the Examiner's remarks in the April 21, 2008 Office action and have amended the application to more clearly set forth aspects of the invention. Claims 1–70 are presented in the application for further examination. Claims 1, 11–13, 16, 17, 22–24, 27–29, 32, 33, 37–40, 44, 47, 48, 52, 55, 56, 63–66, 69 and 70 have been amended by this Amendment B. Reconsideration of the application claims as amended and in view of the following remarks is respectfully requested.

Information Disclosure Statement

With respect to the Information Disclosure Statement ("IDS) included with the Office action dated April 21, 2008, the Examiner did not initial the references disclosed. Applicants respectfully request that the Examiner consider and initial the disclosed references.

Claim Objections

Claims 22, 23, 24, 52, 56, 63 and 64 stand objected due to minor informalities. Applicants have respectfully amended claims 22, 23, 24, 52, 56, 63 and 64 to correct the informalities. Therefore, the objection of claims 22, 23, 24, 52, 56, 63 and 64 should be withdrawn.

Claim Rejections Under 35 U.S.C. § 112

Claims 1, 6–17, 22–23, 37–40, 44–48, 52–56, 62–66 and 68–70 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. When read in light of the entire application, the term “software” is understood by one skilled in the art to mean computer programs, which are comprised of computer readable and executable instructions that perform a task. The Merriam-Webster Dictionary defines software as "the entire set of programs, procedures, and related documentation associated with a system and especially a computer system; *specifically* **: computer programs**." (See, http://www.merriam-webster.com/dictionary/software). For example, an operating system is "software that controls the operation of a computer and directs the processing of programs (as by assigning storage space in memory and controlling input and output functions)". (See, http://www.merriam-

webster.com/dictionary/operating%20system). Those skilled in the art are very familiar with software and its meaning. As such, Applicants request that the Office withdraw the rejection of claims 1, 6–17, 22–23, 37–40, 44–48, 52–56, 62–66 and 68–70.

Additionally, claims 69 and 70 stand rejected under 35 § U.S.C. 112 as failing to comply with the enablement requirement, specifically that "tangible" is not taught in the specification. Claims 69 and 70 have been amended to delete "tangible". As such, Applicants request that the Office withdraw the rejection of claim 69 and 70.

Claim Rejections Under 35 U.S.C. § 101

Claims 17, 22–23, 37–39, 48, 52–56, 62–66 and 68–70 stand rejected under 35 U.S.C. §101, as claiming non-statutory subject matter.

Independent claims 17, 39, 48 and 56 stand rejected under 35 U.S.C. § 101 as claiming non-statutory subject matter. The Examiner argues that said claims are directed to "transmission methods that can be considered a signal that is a carrier wave" (Office action, page 3) and that hardware must be present in the claims to overcome the rejection (Office action, page 5). Claims 17 and 39 have been amended to recite, among other things, an "image server store," a "shared network" and "destination computing device[s]" as part of the claim, an example of which is provided at [0056] and [0058] of the specification for the present invention. These claims do not recite a signal; instead, they recite a method with unique timing (e.g., simultaneously transmitting) and/or unique content (e.g., a single volume image stream). There is no recital as to the signal or the content of the signal. Therefore, Applicants request that rejection under 35 U.S.C. § 101 of amended independent claim 17 and its dependent claims 22–32, amended independent claim 39, amended independent claim 48 and its dependent claims 52–55, as well as amended independent claim 56 and its dependent claims 62–64, be withdrawn.

Independent claims 33 and 38 stand rejected under 35 U.S.C. § 101 as claiming non-statutory subject matter. The Examiner argues that said claims disclose a client-side system comprised only of software. (Office action, page 3). Claims 33 and 38 have been amended to recite, among other things, that a "destination computing device" is included as part of the client side system, an example of which is provided at [0058] of the specification for the present invention. Therefore, Applicants request that rejection under 35 U.S.C. § 101 of amended

independent claim 33 and its dependent claim 37, as well as amended independent claim 38, be withdrawn.

Independent claim 65 stands rejected under 35 U.S.C. § 101 as claiming non-statutory subject matter, as it is "directed to a modulated data signal that can be a carrier wave." (Office action, page 4). Independent claim 65 has been amended to be directed to a method of transmitting so that rejection based on 35 USC § 112 of said claim, as well as its dependent claims 66 and 68, should be withdrawn.

Independent claims 69 and 70 stand rejected under 35 U.S.C. § 101 as claiming non-statutory subject matter, with the Examiner arguing that said claims are "directed to computer readable storage medium that can be considered a carrier wave." (Office action, page 4). However, page 24, paragraph 59 of the specification of the present application discloses "**computer readable media** comprise computer ***storage*** media and **communication media**." And, "**communication media** typically **embody computer readable instructions**, data structures, program modules, or other data **in a modulated data signal such as a carrier wave or other transport mechanism and include any information delivery media**" in contrast to "***computer storage media*** include **volatile and nonvolatile, removable and non-removable media implemented in *any method or technology for storage of information* such as computer readable instructions, data structures, program modules or other data**." Thus, storage media does not include communication media including data signals. Therefore, Applicants request that the rejection under 35 U.S.C. § 101 be withdrawn.

Claim Rejections Under 35 U.S.C. § 103

Claims 1, 6–17, 22–33, 37–40, 44–48, 52–56, 62–66 and 68–70 stand rejected under 35 U.S.C. §103(a) as being unpatentable by U.S. Pat. No. 6,801,936 (hereinafter "Diwan") in view of U.S. Patent No 6,625,625 (hereinafter "Kihara"). Applicants respectfully disagree. None of the cited references, alone or in combination, disclose or suggest such claims.

With regard to the subject matter of claim 1, the Examiner argues that Diwan teaches a system as recited in claim 1 of the present invention. The Examiner additionally argues that Kihara teaches the first and second descriptive data not disclosed by Diwan. Claim 1 stands rejected over Diwan in view of Kihara.

However, Diwan does not teach a system as recited in claim 1. In the sections quoted by the Examiner and other pertinent sections, Diwan teaches a system of temporary aggregation and dissemination of requested information to subscribers:

> Systems and methods consistent with the present invention address this need by providing at least one agent that gathers information from multiple sources, packages the information into customized bundles, and delivers the bundles to subscribers according to a set of rules using multicast routing techniques.

(Diwan, col. 1, lines 47–52). Additionally:

> The information providers **145–155** may include servers, personal computers, laptops, or similar devices that supply information to whomever wants it and/or subscribes to the service. The information providers **145–155** may broadcast streams of information onto the network **180**. One example of an information provider may include a news web site, such as NBC.com, that broadcasts streams of news information.
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> Alternatively, the information providers **145–155** may transmit multicast messages containing information. In this case, the information providers **145–155** may receive requests for information according to any conventional protocol, such as the hyper text transfer protocol (HTTP), the simple mail transfer protocol (SMTP), the network virtual terminal protocol (Telnet), and the like. In response to the requests, the information providers **145–155** may generate multicast messages that include the requested information, such as stock quotes, weather or sports reports, etc., and transmit them using conventional multicast routing techniques. One example of an information provider may include the web site Weather.com that provides up-to-date weather reports to its subscribers.

(Diwan, col. 3, lines 14–34). The system taught by Diwan allows users to request information, such as news stories, weather or stock reports, stock quotes, sports scores, etc., whereby an automated system or agent then collects and aggregates the requested information and disseminates the collected information to the requesting users on "any combination of personal computers, personal digital assistants (PDAs), laptops, mobile or portable phones, and similar communication devices that request information supplied by one of more of the information providers []." (Diwan, col. 2, line 66 - col.3, line 3). Diwan does not teach retention of this information, likely due to the transitory nature of the data collected.

In contrast, amended claim 1 of the present invention recites a system comprising:

> a first volume image including a first software wherein the first volume image includes common file data, and first file data; a second volume image including a second software wherein the second volume image includes the common file data and second file

data which is different from the first file data; a server; a first destination device; a second destination device; a shared network linking the server to the first and second destination devices; wherein the server is adapted to simultaneously transmit the common data to the first and second destination devices via the shared network; wherein the server simultaneously transmits the first file data to the first and second destination devices via the shared network and wherein the server simultaneously transmits the second file data to the first and second destination devices via the shared network; wherein the server simultaneously transmits the first volume image including the first software and the second volume image including the second software in a single image stream from which the first volume image and the second volume image can each be re-created by imaging; wherein the server simultaneously transmits first descriptive data to the first and second destination devices via the shared network, said first descriptive data identifying the common data and first file data of the first volume image; wherein the server simultaneously transmits second descriptive data to the first and second destination devices via the shared network, said second descriptive data identifying the common data and second file data of the second volume image; and wherein the first destination device stores only the common data and the first file data in response to the first descriptive data received from the server while simultaneously the second destination device stores only the common data and the second file data in response to the second descriptive data received from the server; wherein the server simultaneously, directly multicasts the common data, the first file data and the second file data to both the first and second destination devices and wherein the first destination device re-creates the first volume image from the common file data and the first file data simultaneously while the second destination device re-creates the second volume image from the common data and the second file data.

Amended claim 1 recites, among other things, a **volume image** as including **software**, common **file data**, and **file data** specific to a destination device, wherein a destination device uses descriptive data transmitted by the server to store transmitted common and destination device specific file data in response to the descriptive data. Diwan does not provide volume images, but instead provides "customized bundles" of information, gathered from multiple information sources, information such as "stock quotes, weather or sports reports, etc.", for delivery to users via their subscribed devices (Diwan, col. 1, lines 58 – 63; col. 3, lines 30–31; col. 2, line 54 – col. 3, line 13).

Additionally, amended claim 1 recites, among other things, a system "wherein the first destination device **re-creates** the first volume image from the common file data and the first file data simultaneously while the second destination device **re-creates** the second volume image from the common data and the second file data", allowing for a concurrent re-creation of volume images on multiple destination devices. As Diwan does not provide volume images as noted

above, Diwan does not teach re-creation of a volume image on a destination device, instead teaching that a subscribing device presents the requested information to a user, for example: "the subscriber may present the requested information to the user as scrolling text in a pop-up window on a display." (Diwan, col. 6, lines 20-25).

The Examiner argues that Kihara (at Figs. 4, 17; col. 5, lines 49–58) teaches the descriptive data and second descriptive data that identify the common data and unique data in a multicast system. The Examiner argues that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the descriptive data of Kihara with Diwan in order for a subscriber in Diwan to accurately discard extraneous information (Office action, page 8). Kihara teaches at col.5, lines 49-58:

> FIG. **4** shows the backup protocol between the clients and the server, and the backup is executed by respective process programs mentioned in the above. In a case where the backup is needed, file backup information **50** is transmitted from the client **A 30** to the server **10**. In the file backup information **50**, a command ID (an identification code showing a backup operation) and an ID identifying a client are placed in the heading part and following these ID's file data continues. The contents of data of each file may include a file pathname, a file attribute, a file main body, etc.

Applicants submit that Kihara does not teach or suggest a combination of the file information data described in Kihara with the teachings of Diwan and its system of aggregating and transmitting bundles of transitory information, as the file information data taught by Kihara would be of no benefit to the user-requested information transmitted in Diwan. The descriptive data taught by Kihara is data that describes files on the client, which is **sent to a server** for processing. The descriptive data as taught by Kihara would be of no use to a subscriber in Diwan for use in discarding extraneous information **received from a server or agent**.

In addition, it is noted that each of the independent claims recites the combination of a server and a shared network to accomplish file data transfer and image re-creation. Applicants submit that this combination as recited is not in the combined prior art.

Thus, it is submitted that Diwan in view of Kihara does not teach the recitals of amended claim 1 so that claim 1 and its dependent claims 6–16 are patentable over Diwan and Kihara and the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Claims 17, 22–33, 37–40, 44–48, 52–56, 62–66 and 68–70 stand rejected under 35 U.S.C. §103(a) as being unpatentable for the same reasons cited for the rejection of claims 1 and 6–16. (Office action, page 11). Applicants submit that claims 17, 22–33, 37–40, 44–48, 52–56, 62–66 and 68–70 as presented are patentable for at least the same reasons as claims 1 and 6–16, so rejection under 35 U.S.C. § 103(a) should be withdrawn.

Conclusion

Applicants submit that the claims are allowable for at least the reasons set forth herein. It is felt that a full and complete response has been made to the Office action and, as such, places the application in condition for allowance. Such allowance is hereby respectfully requested.

Although the prior art made of record and not relied upon may be considered pertinent to the disclosure, none of these references anticipates or makes obvious the recited aspects of the invention. The fact that Applicants may not have specifically traversed any particular assertion by the Office should not be construed as indicating Applicants' agreement therewith.

Applicants wish to expedite prosecution of this application. If the Examiner deems the application to not be in condition for allowance, the Examiner is invited and encouraged to telephone the undersigned to discuss making an Examiner's amendment to place the application in condition for allowance.

The Commissioner is hereby authorized to charge any deficiency or overpayment of any required fee during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted,

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